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STATE WATER CONTROL BOARD ENFORCMENT ACTION SPECIAL ORDER BY CONSENT ISSUED TO THE TRUSTEES OF THE PRESBYTERY OF THE PEAKS, INC. FOR CAMP FINCASTLE VPDES Permit No. V A 0089672

SECTION A: Purpose

This is a Consent Special Order issued under the authority of Va. Code §§ 62.1-44.15(8a) and (8d), between the State Water Control Board and the Trustees of the Presbytery of the Peaks, Inc., for the purpose of resolving certain violations of environmental law and/or regulations at the Camp Fincastle facility.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and tenus have the meaning assigned to them below:

1. "Va. Code" means the Code of Virginia (1950), as amended.
2. "Board" means the State Water Control Board, a penuanent citizens' board of the Commonwealth ofVirginia as described in Va. Code §§ 1 0.1-1184 and 62.1-44.7.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth ofVirginia as described in Va. Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality.

5. "Order" means this document, also known as a Consent Special Order.
6. "The Trustees" means the Trustees of the Presbytery of the Peaks, Inc., certified to do business in Virginia.
7. "Facility" means the Camp Fincastle located in Botetourt County, Virginia.
8. "WCRO" means the West Central Regional Office of DEQ, located in Roanoke, Virginia.
9. "Pennit" means VPDES Pennit No. V AO089672, which became effective March 16, 1998 and expires March 16, 2003.
10. "O&M" means operations and maintenance.
11. "DMRs" means Discharge Monitoring Reports. SECTION C: Findings of Fact and Conclusions of Law
 1. The Trustees own and operate Camp Fincastle, located in Botetourt County, Virginia. This Facility is the subject of VPDES Pennit No. V AO089672, which became effective March 16, 1998 and expires March 16, 2003.
 2. The Pennit required effluent monitoring to begin in April 1998. The Department never received DMRs for 1998. The Trustees state that there were no discharges during that time but failed to submit the appropriate DMRs.
 3. The Pennit also required the submittal of "an approvable plan and schedule for the assessment of watertight integrity of the lagoon lining, within 60 days following the effective date of this pennit." This plan and schedule were due no later than May 16, 1998. The Department did not receive the plan and schedule by the deadline.
 4. The Pennit was modified on January 29, 2001. The Pennit modification allowed the Facility additional time to submit the lagoon assessment study.
 5. A "Report of Surface Impoundment Evaluation" was received by WCRO/DEQ February 27, 2001. The report is dated December 12, 2000.
 6. Department staff met with Facility staff on June 20, 2001 and an additional study, conducted by a consultant, outlined the financial requirements needed to address the problems outlined in the "Report of Surface Impoundment Evaluation".

.Trustees of the Presbytery of the Peaks, Inc.

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Because of the additional study, the facility decided to close the lagoon and install a package plant.

7. The Permit required the Facility to select an engineering firm and submit a proposed plan for achievement of compliance with final effluent limitations for Total Residual Chlorine (TRC) and Biological Oxygen Demand (BOD) by 5/15/98. Neither quarterly progress reports for TRC or BOD nor a proposed plan for achievement of compliance with final effluent limitations for BOD and Ammonia-Nitrogen have been received by the Department. The Permit modifications removed the Ammonia-Nitrogen monitoring requirement and the

Trustee's plan to upgrade the Facility will address compliance with the BOD limit.

8. The Permit required the Facility to obtain a CTC/CTO for the chlorinating box prior to construction & operation. The Facility did not obtain a CTC or CTO for the installation of the chlorinating box.

9. The Permit required the Facility to submit an approvable O&M manual by 9/16/99. The Facility has not submitted an approvable O&M manual as required by the Permit.

10. The Facility submitted five (5) DMRs (8/99,10/99,1/00, 2/00,3/00) late.

11. The DMRs for July and August 2000 were not complete. The two DMRs did not contain signatures, dates, or phone numbers.

12. The Department received a letter from the Trustees on July 23, 2001. In the letter, Mr .McKee, Director of Camps and Conferences, formally notified the Department that the Trustees would install a package plant ,and close the lagoon. The letter contained a schedule for the package plant installation.

13. The Department and the Trustees entered into a Letter of Agreement, effective September 13,2001. The Agreement contained the schedule and deadlines proposed by the Trustees.

14. On February 6,2002, the Department issued a Warning Letter to the Trustees for submitting the August 2001 DMR one month late. The Letter also notified the Trustees that the plans and specifications, due December 31,2001, as specified in the Letter of Agreement, had not been received by the Department.

15. On April 24, 2002, Department staff and representatives of the Trustees met to discuss the upgrade of the facility. The Trustees intend to sell the Facility and

would prefer not to pursue the upgrade because they feel they can not recover the capital cost in the sale.

16. On November 26,2002, Mr. McKee notified WCRO pennit staff that the Trustees intend to close the facility and would like to withdraw their application for pennit renewal.

17. On December 2,2002, WCRO enforcement staff contacted Mr. McKee and Mr.

McKee verbally confinned that the Trustees intended on closing Camp Fincastle, effective January 1,2003.

SECTION D: A2reement and Order

Accordingly, the Board, by virtue of the authority granted it in Va. Code § 62.1-44.15(8a) and (8d), orders the Trustees, and the Trustees agree that:

1. The Trustees shall pay a civil charge of one thousand eight hundred dollars (\$1,800.00). Payment shall be made by check payable to the "Treasurer of Virginia", delivered to:

Receipts Control
Department of Environmental Quality Post Office Box 10150
Richmond, Virginia 23240

Either on a transmittal letter or as a notation on the check or money order, the

Trustees shall indicate that this payment is submitted pursuant to this Order. The civil charge shall be paid in full no later then 30 days after the effective date of the Order .

2. To remedy the violations described above and bring the Facility into compliance, the Trustees shall perfonn the actions described in Appendix A of this Order.

SECTION E: Administrative Provisions

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1. The Board may modify, rewrite, or amend the Order with the consent of the Trustees, for good cause shown by the Trustees, or on its own motion after notice and opportunity to be heard.

2. This Order only addresses and resolves those violations specifically identified

herein. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently

discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.

3. For purposes of this Order and subsequent actions with respect to this Order, the Trustees admit the jurisdictional allegations, factual findings, and conclusions of law contained herein.

4. The Trustees consent to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the tenus of this Order .

5. The Trustees declare they have received fair and due process under the Administrative Process Act, Va. Code §§ 9-6.14:1 *et seq.*, and the State Water Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order .

6. Failure by the Trustees to comply with any of the tenus of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.

7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.

8. The Trustees shall be responsible for failure to comply with any of the tenus and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. The Trustees shall show that such circumstances were beyond their control and not due to a lack of good faith or diligence on its part. The Trustees shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:

- a. the reasons for the delay or noncompliance;
- b. the projected duration of any such delay or noncompliance;

- c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within 24 hours of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.

10. This Order shall become effective upon execution by both the Director or his designee and the Trustees. Notwithstanding the foregoing, the Trustees agree to be bound by any compliance date which precedes the effective date of this Order.

11. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to the Trustees. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve the Trustees from their obligation to comply with any statute, regulation, pennit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. By its signature below, the Trustees voluntarily agree to the issuance of this Order.

And it is so ORDERED this day of, 2003.

Robert G. Burnley, Director
Department of Environmental Quality

the Trustees voluntarily agree to the issuance of this Order. By:

Date:

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Commonwealth ofVirginia

City/County of

The foregoing document was signed and acknowledged before me this -day of

.2003.by Monty Plymale, who is Chair of the Board of Trustees, of the Presbyteries of the Peaks, Inc., on behalf of the Corporation.

Notary Public

My commission expires: .

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APPENDIX A -COMPLIANCE SCHEDULE

The Trustees shall:

1. By March 16,2003, the Trustees shall cease operation of the lagoon and cease all discharges from the lagoon.
2. By June 30, 2003, the Trustees shall submit a lagoon closure plan and approval form to the Virginia Department ofHealth, P.O. Box 21534, Roanoke, V A 24018.
3. By December 31,2003 the Trustees shall have completed closure of the lagoon.
4. Notify the West Central Regional Office ofDEQ in writing of the completion of each of the above items within 14 days of completion. Should completion not be achieved by the dates specified above, the Trustees shall submit written explanation to WCRO within 14 days after the relevant deadline passes.
5. Work items in this schedule may be substituted, deleted, or rescheduled only after the written approval of the Director ofDEQ or his designee. Upon approval, such changes shall be incorporated by reference as an enforceable part of the Amendment.